

APR 05 2007

Docket No.: 61190(50221)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Simon McEwen

Application No.: 10/820,099

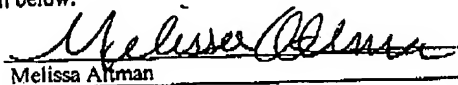
Confirmation No.: 8281

Filed: April 7, 2004

Art Unit: 1651

For: THERAPEUTIC COMPOSITION FOR
AUTOIMMUNE CONDITIONS

Examiner: L. B. Lankford

CERTIFICATION OF FACSIMILE TRANSMISSION	
I hereby certify that this document is being transmitted via facsimile to the Group Secretary, Group Art Unit 1651, in the U.S. Patent and Trademark Office, at 571-273-8300 on the date shown below:	
Dated: <u>April 5, 2007</u>	 Melissa Altman

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed October 5, 2006, Applicant submits the following response together with a Request for a five-month Extension of Time and the requisite fee based on small entity status. Claims 1-29 are pending in the instant application and are subject to restriction. The Office Action requires restriction to one of the following groups under 35 U.S.C. §121:

Group I: Claims 1-24, drawn to a therapeutic composition comprising an enzyme and an immunogen and a kit thereof, classified in class 435, subclass 183, for example.

Group II: Claims 25-29, drawn to a method for treating an autoimmune disease, classified in class 424, subclass 94.1, for example.

In addition, the Office requires election of a single disclosed species of enzyme. In response to the restriction requirement set forth in the Office Action, Applicant hereby

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provisionally elects the invention of Group I, claims 1-24 for continued examination, and elects mucopolysaccharidases as the species of enzyme. Applicant respectfully traverses the requirements for restriction and election, and submits that the requirements are improper.

First, Applicant asserts that the subject matter of these groups represent different embodiments of a single inventive concept for which a single patent should issue. The pending claims represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination of all of these claims in a single application. More particularly, a single, searchable, unifying aspect links all of the claims. This single, searchable, unifying aspect comprises therapeutic compositions comprising an enzyme and an immunogen for the treatment of autoimmune conditions. The claims of Group I are directed to therapeutic compositions comprising the enzyme and immunogen as recited in claim 1; and the claims of Group II are directed to methods for treating or preventing autoimmune conditions using such compositions as recited in claims 25 and 27. Autoimmune conditions include rheumatoid arthritis, as recited in claims 26, 28, and 29. Because the compositions of inventive Group I are also the compositions of inventive Group II, and the conditions to be treated of inventive Group I are also the conditions to be treated of inventive Group II, Groups I and II are, in fact, one group as they are so linked by a single inventive concept.

Second, Applicant submits that a sufficient search and examination with respect to the subject matter of all claims can be made without serious burden. As the M.P.E.P. states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (8th ed., Rev. No. 2, May 2004).

That is, even if the above-enumerated groups of claims are drawn to distinct inventions, the Examiner must still examine the entire application on the merits because doing so will not result in a serious burden. This is especially true given the robust and extensive computerized search engines and databases at the Examiner's disposal and the fact that any search of the subject matter of Group I would necessarily overlap with the subject matter of Group II.

In particular, a search for the subject matter of claim 1, which is directed to therapeutic compositions for the treatment of an autoimmune condition comprising an enzyme and an

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immunogen, would also cover claims to the use of these compositions for the treatment of autoimmune conditions as recited in claims 25 and 27. A search of the subject matter of claims 3 and 17, which depend from claim 1, and which are directed to therapeutic compositions comprising β -glucuronidase (claim 3) and collagen (claim 17), would also cover the subject matter of claims 26 and 28, which feature the therapeutic use of these compositions. Similarly, a search of the subject matter present in claims 1-24 would cover the subject matter of claim 29.

Accordingly, it is respectfully requested that the restriction requirement be reconsidered and the elected claims of Group I be rejoined with those of Groups II, so that claims 1-29 may be presently examined.

Applicant believe no additional fee is due with this response. However, if any additional fee is due, please charge our Deposit Account No. . 04-1105.

Dated: April 5, 2007

Respectfully submitted,

By 

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